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*Aug 1957*

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*Leonard Pomeroy*  
*Chief, Compliance Branch*  
*Memorandum Central*  
*State Dept.*

In reply refer to  
10

Dear Mr. Brundage:

Reference is made to the Department's letter of December 28, 1956, enclosing a letter to the President and a proposed Executive Order to designate the Department of State as a Defense agency for the purposes of Section 181, Title 35, United States Code.

This matter has been the subject of several conferences between officials of the Departments of State and Defense and the United States Patent Office, Department of Commerce. As a result of those discussions, the regulations of the Patent Office and this Department are being amended to transfer from the Patent Office to the Department of State all licensing authority over the export of technical data with applications for foreign filing of patents relating to arms, munition and implements of war.

Since the objectives of the proposed Executive Order have been accomplished by amendments to the regulations, as stated above, it is suggested that you discontinue further consideration thereof.

Sincerely yours,

For the Secretary of State:

Robert C. Hill  
Assistant Secretary

The Honorable  
Festus F. Brundage,  
Director, Bureau of the Budget.

Cleared through:  
SCS A/R H

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SCA:ND:LFPomeroy:mag 5/31-6/5/58

*BEST COPY*  
*Available*

December 9, 1955

The Secretary

Through: S/S

1 - Thornton S. Norton, Assistant Secretary

Proposed Executive Order; Designation of the Department of State as a Defense Agency under Section 181, Title 35, United States Code.

Discussion:

There is enclosed under Tab A a proposed Executive Order, designating the Department of State as a defense agency under Section 181, Title 35, United States Code.

The reason for this Order is to enable the Department to review applications submitted to the Patent Office for license to file abroad under the provisions of Section 181, Title 35, United States Code. At present, the disclosure of matters pertaining to patent applications is permissible only to the Atomic Energy Commission, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the Government as a defense agency of the United States. (See excerpt from Section 181 under Tab D.) As stated in the draft letter to the President, this Order will make it possible for the Department to correlate with the Patent Office action on patent applications to be filed abroad and avoid imposing on the exporter the obligation to make separate applications to the Department and the Patent Office for permission to ship technical data, thus saving him a considerable amount of time, trouble and annoyance.

As part of an understanding with the Department of Defense, this Department by regulation issued August 26, 1955 (22 C.F.R. 75.114) included a section providing that the issuance of a license by the Patent Office to an exporter of technical data connected with an application for foreign filing renders it unnecessary for the exporter to obtain a separate license from the Secretary of State. The insertion of this provision in the regulations, however, was made contingent on the Department's acquiring a right to review applications for foreign filing in the munitions field which are made to the Patent Office. This in turn would depend on the issuance of an Executive Order such as the one here proposed. If the Executive Order is approved, it will be possible to institute the contemplated procedure for joint review by the Department and the Patent Office of applications for foreign filing without amending this part of the regulations.

There are also enclosed under Tabs B and C letters to the Director of the Bureau of the Budget and to the President with respect to this matter.

Recommendations:

It is recommended that you indicate your approval by signing the letter to the President. (Tab C)

Comments:

This matter has been discussed with Patent Office and Department of Defense officials, and informal concurrences have been obtained.

Enclosures:

1. Tab A - Proposed Executive Order.
2. Tab B - Letter to Director, Bureau of the Budget.
3. Tab C - Letter to the President.
4. Tab D - Excerpt from Section 191, Title 35, U. S. C.

SCA:MO:LEP:mercyms

H - Florence Kirlin, Acting Assistant  
Secretary

November 1, 1955

Through:

A/TJ

MC - Balton C. Bryan, Director

Proposed Executive Order; Designation of the Department of State  
as a Defense Agency under Section 181, Title 35, United States Code.

Discussion:

Attached is a draft Executive Order, designating the Department  
of State as a defense agency under Section 181, Title 35, United  
States Code.

As stated in the attached draft memorandum from you to Mr.  
Hoover, the purpose of this Order is to enable the Department to  
set up the necessary machinery to save the exporter the time and  
trouble of getting more than one license authorization for a single  
technical data export.

Recommendations:

It is recommended that you indicate your approval by signing  
the draft letter to Mr. Hughes and initialling the memorandum to Mr.  
Hoover.

Attachments:

Draft memorandum to Mr. Hoover  
with enclosures.

SCA:MC:LEP:amf:oy:ms

only refer to

Dear Mr. Hughes:

There are enclosed herewith a letter to the President and a proposed Executive Order to designate the Department of State as a defense agency for the purposes of Section 181, Title 35, United States Code.

The provisions of Section 181 specifically limit disclosure of such inventions for purposes of inspection to the Atomic Energy Commission, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States. The purpose of this Executive Order is to enable the Department to review requests for permission to export patent applications containing technical data relating to arms, ammunition, and implements of war which have been submitted to the Patent Office. By enabling the Department to review applications submitted to the Patent Office for license to file abroad, the issuance of a license can be made to reflect complete State, Defense, and Patent Office approval with regard to political and military security aspects. This would avoid imposing on the exporter the obligation to make separate applications to the Department and the Patent Office for permission to export a given set of documents, thus saving him both trouble and delay.

Sincerely yours,

For the Secretary of State

Thurston B. Morton  
Assistant Secretary

Enclosures:

To the President,  
with enclosure.

The Honorable  
Randall A. Hughes,  
Director, Bureau of the Budget.

SCA:MC:LHPomeroy:ns 10/31-11/4-12/9/55

Dear Mr. President:

There is enclosed a proposed Executive Order to designate the Department of State as a defense agency for the purposes set forth in Section 181, Title 35, United States Code.

This Order will make it possible for the Department of State to correlate with the Patent Office action on patent applications to be filed abroad. As a result, a single license to reflect the clearance of both agencies will be possible, thus saving the exporter a considerable amount of time, trouble, and annoyance.

Faithfully yours,

/s/ John Foster Dulles

Enclosure:

Proposed Executive Order.

The President,

The White House

Cleared through:

SCS

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SCA:MC:LHPomeroy:ms



**EXECUTIVE ORDER**

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**DESIGNATION OF THE DEPARTMENT OF STATE AS A DEFENSE AGENCY**

**UNDER SECTION 161, TITLE 35, UNITED STATES CODE**

By virtue of the authority vested in me by Section 161 of Title 35, and as President of the United States, it is hereby ordered that the Department of State shall be designated a defense agency for the purposes of that Section.

**THE WHITE HOUSE,**

**Cleared through:**

<b>SCS</b>	<b>A/MP</b>	<b>S/S</b>
<b>L/E</b>	<b>H</b>	<b>S</b>

**SCA:DC:LLP:cmr:mas 10/11/55**



**EXCERPT FROM SECTION 181,**

**TITLE 35, UNITED STATES CODE**

Whenever the publication or disclosure of an invention by the granting of a patent in which the Government does not have a property interest might, in the opinion of the Commissioner, be detrimental to the national security, he shall make the application for patent in which such invention is disclosed available for inspection to the Atomic Energy Commission, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States.